
(2014) 01 JH CK 0019
In the Jharkhand High Court
Case No : W.P. (PIL) No. 5497 of 2011

Court on its Own Motion

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 21
Penal Code, 1860 (IPC) — Section 294, 295, 509

Citation : (2014) 1 JLJR 355

Hon'ble Judges : R. Banumathi, C.J.; Aparesh Kumar Singh, J

Bench : Division Bench

Advocate : Delip Jerath, Advocate for the Appellant; R. Mukhopadhyay for the State, Advocate for the Respondent

Judgement

1. Taking notice of several news items in the Newspapers indicating that in the city of Ranchi there is a steep rise in the girls teasing in the Schools, Colleges and Universities, by order dated 14.9.2011 this Court directed the Registry to register this matter as "Public Interest Litigation". By order dated 14.9.2011 and subsequent orders passed by this Court on 22.9.2011 and 17.7.2013, this Court has issued various directions to ensure safety and security measures for the young girls and women in general.
2. Learned Amicus Curiae submitted that in spite of the various directions issued by this Court, the menace of eve-teasing has not been reduced and are increasing-and prayed for issuance of appropriate directions.
3. We have heard learned Amicus Curiae and also learned counsel appearing for the State.
4. In this context, learned Counsel for the State has drawn our attention to a judgment rendered by Hon'ble Supreme Court in the case of The Deputy Inspector General of Police and Another Vs. S. Samuthiram, . Expressing concern over the pernicious practice of eve-teasing and after referring to the Tamil Nadu

Prohibition of Eve-Teasing Act, 1998, the Hon'ble Supreme Court in paragraph 34 issued various directions to curb eve-teasing. The relevant paragraphs of judgment of the Hon'ble Supreme Court, which are paragraphs 29 to 34 reads as under:--

29. We may, in the facts and circumstances of this case, wish to add some aspects which are also of considerable public importance. We notice that there is no uniform law in this country to curb eve-teasing effectively in or within the precinct of educational institutions, places of worships, bus-stands, metro stations, railway stations, cinema theaters, parks, beaches, places of festival, public service vehicles or any other similar place. Eve-teasing generally occurs in public places which, with a little effort, can be effectively curbed. Consequences of not curbing such a menace are, needless to say, at times disastrous. There are many instances where girls of young age are being harassed, which sometimes may lead to serious psychological problems and even committing suicide. Every citizen in this country has the right to live with dignity and honour which is a fundamental right guaranteed under Article 21 of the Constitution of India. Sexual harassment like eve-teasing of women amounts to violation of rights guaranteed under Articles 14, 15 as well. We notice that in the absence of effective legislation to contain eve-teasing, normally, complaints are registered u/s 295 or Section 509 IPC.

30. Section 294 IPC says that:--

294. Obscene acts and songs.-- Whoever, to the annoyance of others--

(a) does any obscene act in any public, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

It is for the prosecution to prove that the accused committed any obscene act or the accused sang, recited or uttered any obscene song; ballad or words and this was done in or near a public place, it was of obscene nature and that it this was done in or near a public place, it was of obscene nature and that it had accused annoyance to others. Normally, it is very difficult to establish those facts and, seldom, complaints are being filed and criminal cases will take years and years and often people get away with no punishment and filing complaint and to undergo a criminal trial itself is an agony for the complainant, over and above the extreme physical or mental agony already suffered.

31. Section 509 IPC say:--

509. Word, gesture or act intended to insult the modesty of a woman.-- Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall

be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

The burden is on the prosecution to prove that the accused had uttered the words or made the sound or gesture and that such word, sound or gesture was intended by the accused to be heard or seen by some woman. Normally, it is difficult to establish this and, seldom, a woman files a complaints and often the wrongdoers are left unpunished even if the complaint is filed since there is no effective mechanism to monitor and follow up such acts. The necessity of a proper legislation to curb eve-teasing is of extreme importance, even the Tamil Nadu legislation has no teeth.

32. Eve-teasing today has become a pernicious, horrid and disgusting practice. The Indian Journal of Criminology and Criminalistics (January-June 1995 Edn.) has categorised eve-teasing into five heads viz:--

- (1) verbal eve-teasing;
- (2) physical eve-teasing;
- (3) psychological harassment;
- (4) sexual harassment; and
- (5) harassment through some objects.

33. In *Vishaka v. State of Rajasthan* this Court has laid down certain guidelines on sexual harassment. In *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* this Court had explained the meaning of "modesty" in relation to women. More and more girl students, women, etc. go to educational institutions, work places, etc. and their protection is of extreme importance to a civilised and cultured society. The experience of women and girl children in overcrowded buses, metros, trains, etc. are horrendous and a painful ordeal.

34. Parliament is currently considering the Protection of Woman against Sexual Harassment at Workplace Bill, 2010, which is intended to protect female workers in most workplaces. Provisions of that Bill are not sufficient to curb eve-teasing. Before undertaking suitable legislation to curb eve-teasing, it is necessary to take at least some urgent measures so that it can be curtailed to some extent. In public interest, we are therefore inclined to give the following directions:--

34.1. All the State Governments and Union Territories are directed to depute plain clothed female police officers in the precincts of bus-stands and stops, railway stations, metro stations, cinema theaters, shopping malls, parks, beaches, public service vehicles, places of worship, etc. so as to monitor and supervise incidents of eve-teasing.

34.2. There will be a further direction to the State Government and Union Territories to install CCTV cameras in strategic positions which itself would be a

deterrent and if detected, the offender could be caught.

34.3. Persons in-charge of the educational institutions, places of worship, cinema theaters, railway stations, bus-stands have to take steps as they deem fit to prevent eve-teasing, within their precincts and, on a complaint being made, they must pass on the information to the nearest police station or the Women's Help Center.

34.4. Where any incident of eve-teasing is committed in a public service vehicle either by the passengers or the persons in-charge of the vehicle, the crew of such vehicle shall, on a complaint made by the aggrieved person, take such vehicle to the nearest police station and give information to the police. Failure to do so should lead to cancellation of the permit to ply.

34.5. The State Governments and Union Territories are directed to establish Women Helpline in various cities and towns, so as to curb eve-teasing within three months.

34.6. Suitable boards cautioning such act of eve-teasing be exhibited in all public places including precincts of educational institutions, bus-stands, railway stations, cinema theaters, parks, beaches, public service vehicles, places of worship, etc.

34.7. Responsibility is also on the passers-by and on noticing such incident, they should also report the same to the nearest police station or to Women Helpline to save the victims from such crimes.

34.8. The State Governments and Union Territories of India would take adequate and effecting measures by issuing suitable instructions to the authorities concerned including the District Collectors and the District Superintendent of Police so as to take effective and proper measures to curb such incidents of eve-teasing.

5. Since the Hon'ble Supreme Court has already issued the directions, we direct the State of Jharkhand to strictly enforce the directions as enumerated by the Hon'ble Supreme Court, in the above-case in its letter and spirit. Pursuant to the discussions and the observations made by this Court from time to time during the pendency of this case, the following instructions are finally recorded for its implementation by all concerned in its letter and spirit:--

(a) The Chief Secretary of State of Jharkhand is directed to circulate the directions as contained in the orders passed by this Court and in particular order dated 22.9.2011 and 17.7.2013 to all concerned including the Home Secretary of the State and at the Deputy Commissioners of the District in order to effectively control the incident of eve-teasing in maintaining Law and Order.

(b) In the light of ever increasing incidents of Eve-teasing and other offences against women, there is a need of stringent measures and strict laws for speedy disposal of reported cases. It would be in order if the State of Jharkhand enacts a

legislation in tune with the Tamil Nadu Prohibition of Eve-teasing Act, 1998 and Delhi Prohibition of Eve-teasing Act, 1998.

(c) The Director General of Police of the State of Jharkhand shall take effective measures to alert all the Superintendents of Police of the District to address the menace of Eve-teasing by taking suitable measures such as by deploying women constable particularly near educational institutions, girls hostel, working women hostel, market or places, bus stand, railway station, cinema theater, public service vehicles, trains, places of worship etc.

(d) The Registrar General of High court of Jharkhand is directed to issue instructions to the Member Secretary of Jharkhand State Legal Services Authority (JHALSA) to communicate order of this Court in hand to all the Chairman, Vice-Chairmen, Secretaries, Members of the District Legal Services Authority/Sub-Divisional Legal Services Committee to take effective ways and means to decimate the menace of Eve-teasing by adopting appropriate and befitting measures, inter alia, such as:--

(i) To create legal awareness among all the stake holders including Police officials, Para Legal Volunteers, women, general public etc. with the latest amended provisions of the Indian Penal Code related to offences of voyeurism, stalking etc? by introducing new Sections 354A to 354D of the Indian Penal Code vide Criminal Law (Amendment) Act, 2013 w.e.f. 3.2.2013.

(ii) To sensitize Para Legal Volunteers to help the victims by facilitating the victims to take legal actions against the culprit.

(iii) To coordinate with the State Women Commission, State Human Right Commission and Department of Social Welfare, Women and Child Development of the State of Jharkhand to open effective Women's Help Center involving Para Legal Volunteers for taking immediate legal action against the wrongdoers/ culprits of Eve-teasing.

(iv) To publish pamphlets, brochures, booklets, hoardings and other desired activities at all vulnerable places informing about the steps to be taken by the victim girls/women to save themselves from the torture of Eve-teasing such as contact number of the police by mobile/telephone, number of women's help center, telephone/contact number of Para Legal Volunteers of the area etc.

(v) To use Electronic and Print Media and means for spreading awareness and accessibility, among the general masses.

(e) The Registrar General of the High Court of Jharkhand is further directed to send the copy of this order to State Women Commission and the State Human Rights Commission of State of Jharkhand with a request to coordinate with the Jharkhand Legal Services Authority in order to curb the social evil of Eve-teasing and other offences against women effectively.

(f) The Department of Social Welfare, Women and Children of State of Jharkhand

is also directed to take all effective measures in order to implement the directives of this court to check the menace of Eve-teasing and other offences against women and to coordinate with the Jharkhand State Legal Services Authority for taking strong steps in this regard.

In the light of the aforesaid pronouncement, the Registrar General of High Court of Jharkhand is directed to send the copy of this order to all concerned.

Copy of this order be given to Amicus Curiae and also to the counsel for the State.